

## Internal Revenue Service

Number: **202019013**

Release Date: 5/8/2020

Index Number: 1362.01-03

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01

PLR-116742-19

Date:

January 13, 2020

### LEGEND:

X =

State =

Date 1 =

Date 2 =

A =

Dear :

This letter responds to a letter dated June 21, 2019, submitted on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

### Facts

The information submitted states that X was incorporated in State on Date 1. A, the sole shareholder of X, intended for X to be an S corporation effective Date 1. However, Form 2553, Election by a Small Business Corporation, was not timely filed. Accordingly, X requests a ruling that it will be treated as an S corporation effective Date 2.

X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

Law and Analysis

Section 1362(a) provides that a small business corporation may elect to be an S corporation.

Section 1362(b)(1) provides that an election under § 1362(a) may be made by a small business corporation for any taxable year (A) at any time during the preceding taxable year, or (B) at any time during the taxable year and on or before the 15th of the third month of the taxable year.

Section 1362(b)(3) provides that if a small business corporation makes an election under § 1362(a) for any taxable year, and such election is made after the 15th day of the third month of the taxable year and on or before the 15th day of the third month of the following taxable year, then such election will be treated as made for the following year.

Section 1362(b)(5) provides that if (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year.

Conclusion

Based solely on the information submitted and the representations made, and provided that X otherwise qualifies as an S corporation, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective Date 2.

Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 effective Date 2, along with a copy of this letter, with the appropriate service center within 120 days from the date of this letter, such election will be treated as timely made for Date 2.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed or implied concerning whether X otherwise qualifies as an S corporation for federal tax purposes.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed

by the appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Laura C. Fields

Laura C. Fields  
Senior Technician Reviewer, Branch 1  
(Passthroughs & Special Industries)

Enclosures (2):  
Copy of this letter  
Copy for 6110 purposes

cc: